

## § 2570.155

(iii) The petitioner is established or maintained for the purpose of offering or providing benefits described in section 3(1) of ERISA (29 U.S.C. 1002(1)) to employees of two or more employers (including one or more self-employed individuals) or their beneficiaries;

(iv) The petitioner satisfies the criteria in 29 CFR 2510.3-40(b); and

(v) Service has been made as provided in § 2570.155.

(5) The affidavits shall set forth such facts as would be admissible in evidence in a proceeding under 29 CFR part 18 and shall show affirmatively that the affiant is competent to testify to the matters stated therein. The affidavit or other written evidence must set forth specific facts showing the factors required under paragraph (b)(4) of this section.

### § 2570.155 Service.

For section 3(40) proceedings, this section shall apply instead of 29 CFR 18.3.

(a) *In general.* Copies of all documents shall be served on all parties of record. All documents should clearly designate the docket number, if any, and short title of all matters. All documents to be filed shall be delivered or mailed to the Chief Docket Clerk, Office of Administrative Law Judges (OALJ), 800 K Street, NW., Suite 400, Washington, DC 20001-8002, or to the OALJ Regional Office to which the proceeding may have been transferred for hearing. Each document filed shall be clear and legible.

(b) *By parties.* All motions, petitions, pleadings, briefs, or other documents shall be filed with the Office of Administrative Law Judges with a copy, including any attachments, to all other parties of record. When a party is represented by an attorney, service shall be made upon the attorney. Service of any document upon any party may be made by personal delivery or by mailing by first class, prepaid U.S. mail, a copy to the last known address. The Secretary shall be served by delivery to the Associate Solicitor, Plan Benefits Security Division, ERISA Section 3(40) Proceeding, PO Box 1914, Washington, DC 20013. The person serving the document shall certify to the manner and date of service.

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(c) *By the Office of Administrative Law Judges.* Service of orders, decisions and all other documents shall be made to all parties of record by regular mail to their last known address.

(d) *Form of pleadings.* (1) Every pleading shall contain information indicating the name of the Employee Benefits Security Administration (EBSA) as the agency under which the proceeding is instituted, the title of the proceeding, the docket number (if any) assigned by the OALJ and a designation of the type of pleading or paper (e.g., notice, motion to dismiss, etc.). The pleading or paper shall be signed and shall contain the address and telephone number of the party or person representing the party. Although there are no formal specifications for documents, they should be typewritten when possible on standard size 8½×11 inch paper.

(2) Illegible documents, whether handwritten, typewritten, photocopies, or otherwise, will not be accepted. Papers may be reproduced by any duplicating process provided all copies are clear and legible.

### § 2570.156 Expedited proceedings.

For section 3(40) Finding Proceedings, this section shall apply instead of 29 CFR 18.42.

(a) At any time after commencement of a proceeding, any party may move to advance the scheduling of a proceeding, including the time for conducting discovery.

(b) Except when such proceedings are directed by the Chief Administrative Law Judge or the administrative law judge assigned, any party filing a motion under this section shall:

(1) Make the motion in writing;

(2) Describe the circumstances justifying advancement;

(3) Describe the irreparable harm that would result if the motion is not granted; and

(4) Incorporate in the motion affidavits to support any representations of fact.

(c) Service of a motion under this section shall be accomplished by personal delivery, or by facsimile, followed by first class, prepaid, U.S. mail. Service is complete upon personal delivery or mailing.